

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

D-24 BRANDON THOMAS,

Defendant.

MAGISTRATE JUDGE KIMBERLY ALTMAN

No. 21-20354

ARRAIGNMENT AND DETENTION HEARING

(Conducted Via Zoom Videoconferencing Software)

Wednesday, June 9, 2021

Appearances:

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- - -

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Transcript produced using machine shorthand and CAT software.

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None Marked, Offered or Received

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Detroit, Michigan

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11:17 a.m.

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(Call to Order of the Court.)

THE CLERK: Calling Case Number 21-20354,
United States v. Brendon Thomas.

Counsel, please state your name for the record.

MS. ASHER: Good morning, Your Honor. Danielle Asher
on behalf of the United States.

MS. GRACEY: Good morning, Your Honor. For the
record, Judy Gracey on behalf of Mr. Thomas, who is
participating by Zoom video via the Livingston County Jail with
no objection.

THE COURT: Okay. Thank you. Good afternoon.
Good afternoon, Mr. Thomas. Can you please state your
name for the record.

THE DEFENDANT: Brandon Lamar Thomas. Good
afternoon, Your Honor.

THE COURT: Okay. And before we get started, as your
lawyer just explained, ordinarily you would have a right to an
in-person hearing in court, but the court is closed so we're
doing the proceedings over Zoom, and you agree to have your
hearings over Zoom today?

THE DEFENDANT: Yes, Your Honor.

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1 **THE COURT:** Okay. Thank you. Well, the reason you
2 are here today is to be arraigned on the indictment and for a
3 detention hearing, and, as to the arraignment, have you had an
4 opportunity to go over the charges and maximum penalties with
5 your lawyer?

6 **THE DEFENDANT:** Yes, Your Honor.

7 **THE COURT:** Okay. I'm going to go over them as well.
8 You are charged in Count 1, RICO conspiracy. It's a
9 violation of 18 U.S.C. Section 1962, for which if you are
10 convicted or plead guilty you could be sentenced to a term of
11 up to life imprisonment, a \$250,000 fine, and up to five years
12 of supervised release.

13 You are also charged in Count 4, Conspiracy to Distribute
14 Controlled Substances, in violation of 21 U.S.C. Section 846
15 and 841, for which you could be sentenced to a term of at least
16 ten years and up to life imprisonment, a \$10 million fine, and
17 at least five years of supervised release. There is also an
18 enhanced penalty notice, and I do have in front of me an
19 Acknowledgment of the Indictment that appears to be signed by
20 you and by your counsel. Is that correct?

21 **THE DEFENDANT:** That's right.

22 **THE COURT:** Okay. Counsel, are you prepared to enter
23 a plea on behalf of your client at this time?

24 **MS. GRACEY:** I am, Your Honor. At this time we waive
25 any further formal reading. My client will stand mute, and we

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1 ask that the Court enter a plea of not guilty on his behalf on
2 both charges.

3 **THE COURT:** I will enter a plea of not guilty on his
4 behalf, and the record will reflect that he has been arraigned
5 on the indictment.

6 Ms. Asher, is the detention hearing still going?

7 **MS. ASHER:** Yes, Your Honor.

8 **THE COURT:** Okay. You may proceed when ready.

9 **MS. ASHER:** Thank you, Your Honor.

10 As Your Honor just noted, Mr. Thomas is charged in
11 Count 1, the RICO conspiracy, as well as Count 4, a
12 drug-trafficking conspiracy. Count 4 carries a mandatory
13 minimum ten years if convicted, and there is also a presumption
14 of detention for this count. The government is moving both on
15 nonappearance grounds as well as dangerousness.

16 Mr. Thomas is named in ten overt acts in the indictment.
17 The majority of those are a crime within the last few months.
18 He's named in Overt Act 53, which is on Page 47; Overt Act 179,
19 which is on Page 87; Overt Acts 233 and 234 on Page 101; Overt
20 Act 240 on Page 103; Overt Acts 246 and 247 on Page 105; Overt
21 Act 249 on Page 106; Overt Act 261 on Page 110; and Overt Act
22 270 on Page 112. And I will encompass a majority of this
23 during my proffer as well.

24 As Your Honor is aware, we filed a written proffer about
25 the Almighty Vice Lord Nation, and I just want to highlight a

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1 few facts as those relate specifically to Mr. Thomas.

2 As Your Honor is aware, the Almighty Vice Lord Nation is a
3 highly organized violent gang with a chain of command and
4 strict by-laws. Vice Lord leaders, like Defendant Number 1,
5 Kevin Fordham, issue Key 21 kill orders, where members are
6 required to carry out these orders to kill members suspected of
7 cooperating with law enforcement or rival gang members.

8 They also issue orders to assault Vice Lord members who
9 are in violation of these strict by-laws, and members like
10 Brandon Thomas must immediately follow these orders from these
11 higher ranked leaders like someone who is Kevin Fordham.

12 Your Honor is also aware of the power struggles that are
13 currently going on in the Vice Lord leadership. Based on Vice
14 Lord literature, treason requires punishment by either a life
15 of misery or death.

16 Your Honor is aware that there are plans with the Mafia
17 Insane and Traveling Vice Lords to overthrow Vice Lord
18 leadership, including the Prince -- IVL Prince Kevin Fordham,
19 Defendant 1, and during that conversation Mr. Thomas is also
20 specifically mentioned as one of the people who needs to be
21 taken out first because he's someone that they would need to
22 worry about because he is a high-ranking member under
23 Kevin Fordham.

24 There are significant concerns for violent retaliation
25 based on this plot by Vice Lord members, particularly like

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1 someone who is Brandon Thomas, who is named and specifically
2 listed as part of this plot, and who also has a high-ranking
3 role, who is expected to carry out violence on behalf of the
4 gang.

5 He is a Chief Enforcer, and he is Kevin Fordham's chief
6 enforcer, Defendant Number 1. And I'll explain further that
7 he's the person that Kevin Fordham turns to when he needs
8 murders or he needs physical beatings for Vice Lord members who
9 are in violation of Vice Lord law.

10 Additionally, Vice Lord members like Brandon Thomas sell
11 drugs. They utilize an expansive Vice Lord drug-trafficking
12 network. Vice Lord members like Brandon Thomas are involved in
13 selling fentanyl and heroin.

14 **THE COURT:** Excuse me, Ms. Asher. I just want to
15 briefly interrupt you.

16 Mr. Thomas, this is the government's turn to make its
17 proffer and its argument, and your lawyer will have an
18 opportunity to rebut that on your behalf -- okay -- so you
19 don't need to raise your hand or anything. It's just a time to
20 listen; okay? Okay?

21 All right. You may proceed, Ms. Asher.

22 **MS. ASHER:** Thank you, Your Honor.

23 As I was explaining, Vice Lord members like Brandon Thomas
24 enjoy connections to drug suppliers and they also utilize an
25 interstate drug network to further drug trafficking on behalf

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1 of the gang. They are also involved in armed drug trafficking.

2 Your Honor, I would also proffer several things from the
3 Pretrial Services Report, but, just as an initial matter,
4 respectfully the government believes that the Pretrial Services
5 report is lacking significant relevant information that the
6 Court should consider in determining whether Mr. Thomas poses a
7 nonappearance risk or a danger to the community if released on
8 bond, and we believe that this highlights his inability to be
9 successfully monitored by Pretrial Services if he is released.
10 Additionally, we would note the report has no mention of
11 Mr. Thomas' gang ties.

12 As far as the residence that Mr. Thomas provided, he
13 provided 20576 Vaughan, which is one of the locations where ATF
14 agents executed a search warrant at and where Mr. Thomas was
15 arrested on June 3rd, and I'll explain some details about that
16 later, but I would note that both Mr. Thomas and his girl
17 friend told Pretrial Services that they had been living at that
18 address for the past year and then Pretrial Services was unable
19 to verify where he had lived before that. He said he lived on
20 and off on Prest for a year and on Santa Clara for five years
21 in Detroit, but, again, he was not truthful to Pretrial
22 Services about this. He never admitted to staying at a
23 second location off Brady in Redford, Michigan.

24 Upon his arrest, Brandon Thomas told ATF that he was
25 staying both on Vaughan and on Brady. He explained that his

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1 baby mama lived on Vaughan, but he also stayed at Brady, and
2 this is a location where his nephew lives, and he also provided
3 another location for his wife on Pierson.

4 ATF obtained a ping warrant on Mr. Thomas' phones, and it
5 showed that he splits his time evenly. During the month of May
6 at least he's splitting his time evenly between that Vaughan
7 residence and Brady residence.

8 He also was traveling out of town on May 16th, 2021 -- out
9 of state, I'm sorry, on May 16th, 2021, and his ping data
10 showed up until the time of his arrest on June 3rd he was
11 evenly splitting his time and spending the night at both the
12 Brady residence, which I'll talk about later where ATF also
13 executed a search warrant, and the Vaughan residence that he
14 provided to Pretrial Services and that his girl friend also
15 confirmed with Pretrial Services.

16 He was at the Brady residence the day before the search
17 warrant, and he spent the night at Vaughan the day of the
18 search warrant. So, again, he was not truthful to Pretrial
19 Services and neither was his girl friend when they were
20 explaining where his residence is, and he is requesting to be
21 released to that Vaughan address.

22 Additionally, Your Honor, his employment history, he says
23 that he is, quote-unquote, a "self-employed security guard."
24 And that is actually -- would be consistent with his role as a
25 Chief Enforcer for this gang, which would explain some of the

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1 different violent activities that he was involved in, both for
2 the IVL, and he's also a member of the Phantom Motorcycle Club,
3 which I will talk about in a moment.

4 Pretrial Services notes his mental health history. He was
5 hospitalized five years ago for hearing voices and is currently
6 taking Risperdal, which is a medication for a mood disorder,
7 and Seroquel, which is a psychotropic medication for
8 schizophrenia.

9 Mr. Thomas has over a decade of repeatedly failing to
10 appear with outstanding warrants. He has ten active warrants
11 based on the Pretrial Services Report. Nine of those are for
12 failing to appear, starting in 2009 and as recently as 2020,
13 November of 2020, a criminal bench warrant for failure to
14 appear.

15 He also has several arrests. He has a misdemeanor weapons
16 conviction from 2006, but he does have several other arrests,
17 including a 2013 arrest for felony CSC, unlawful imprisonment,
18 assault with intent to commit great bodily harm, and assault
19 with a dangerous weapon. Based on the police report for that
20 incident, the victim explained that Mr. Thomas thought that the
21 victim had molested a child. The victim said that Mr. Thomas
22 threatened him with a steak knife and shoved a metal broom up
23 his rectum. He also took gardening shears and threatened to
24 cut off the victim's genitals. But, again, there was never a
25 conviction. That case was dismissed.

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1 Pretrial Services notes that the defendant has numerous
2 outstanding warrants for failure to appear and ties to out of
3 the state, and we disagree that there are conditions that would
4 be in place that would be able to reasonably assure his
5 appearance as required.

6 Additionally, Your Honor, we believe for the Pretrial
7 Services recommendation for release based on the danger to the
8 community it's lacking, most notably, his gang affiliation but
9 also any relation to drug trafficking, which we'll explain in a
10 moment, as well as his involvement in ongoing shootings and
11 discussions about murder and his involvement in extortion.

12 Turning to Mr. Thomas' role within the Almighty Vice Lord
13 Nation, Mr. Thomas is the Chief Enforcer for the entire Insane
14 Vice Lord branch. He is also the National President for the
15 Phantom's Motorcycle Club. This is a group that's affiliated
16 with the Vice Lords, and it's also been recognized as a
17 criminal enterprise in a previous federal RICO case, *United*
18 *States v. Nicholson*.

19 Mr. Thomas himself admitted in April of 2021 that he is
20 the Chief Enforcer over the Nation right underneath P. P is an
21 unindicted coconspirator. And the way that the ranking system
22 goes is Defendant 1, Kevin Fordham; Number 2 is P; and Number 3
23 would be Mr. Thomas, the Chief Enforcer, the third highest rank
24 within the Insane Vice Lords. Under Vice Lord literature Chief
25 Enforcers are expected to handle discipline, enforce all

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1 commands sent down to him from Vice Lord leaders, and this
2 includes acts of violence, like assaults for members who are in
3 violation and murder.

4 He is involved in extortion with Vice Lords and Phantom's
5 Motorcycle members. In 2018 he attempted to extort K.M. for
6 both \$2,000 and his motorcycle. He sent threatening text
7 messages to K.M., arrived at the victim's home, threatened to
8 kill the victim and his family, and said he had a gun in the
9 back of the truck, and this was all because Mr. Thomas was told
10 by another Vice Lord and Phantom Motorcycle Club member that he
11 thought the victim was having an affair with his wife -- with
12 the other member's wife, not Mr. Thomas's wife.

13 Additionally, the vehicle that was involved in that
14 confrontation was registered to Boss Hogg Protection, and
15 Boss Hogg is Mr. Thomas' gang alias.

16 As Vice Lords they are required to carry out violent acts,
17 and he is also likely to possess firearms both in his person
18 and in his residence, and during a federal search warrant on
19 both of his residences ATF found firearms at both locations,
20 and I'll discuss the other items found in detail in a moment.

21 Additionally, during a three-month period between February
22 of 2021 and April of 2021 there were numerous calls intercepted
23 between Mr. Thomas and IVL Prince Defendant 1, Kevin Fordham.
24 One of those calls was discussing a plot to murder a Vice Lord
25 member known as Lil Ugly.

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1 During a call on March 13th, 2021, Brandon Thomas was
2 talking to Kevin Fordham about an IVL member's request to have
3 this individual murdered. During the call Thomas is telling
4 Kevin Fordham that he thinks they don't have the full
5 information, but then he tells Kevin Fordham that he would,
6 quote, "ride" for Fordham because Fordham is a Vice Lord and he
7 says he does not have a problem handling the situation.

8 So if Kevin Fordham wants him to kill this guy even though
9 he doesn't think he has the full information, he's telling
10 Kevin Fordham, "I'm willing to do it. I'm willing to handle
11 the situation." And during this conversation he's using a
12 cavalier tone, like he's having any other normal conversation
13 talking about the weather, talking about what's going on,
14 instead here he's talking about killing someone.

15 There is, additionally, another call from April of 2021
16 where Brandon Thomas, it shows, is in charge of both carrying
17 out and overseeing these physical violations of Vice Lord
18 members who are in violation of Vice Lords law again at the
19 direction of Kevin Fordham. During this call on April 30th
20 with Kevin Fordham, Kevin Fordham is telling Thomas that "you
21 the Chief Enforcer," and he's telling Brandon Thomas that he's
22 not needed to go to this meeting unless there is going to be
23 something that needs to be handled, referring to a violation
24 for a Vice Lord member.

25 Thomas then asks Fordham, "Oh, you don't think it's going

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1 to be a violation today, bro?"

2 Fordham then said, if there are going to be violations
3 handed out, then he explained that sisters who are female Vice
4 Lord members, they violate each other and so Thomas does not
5 need to handle it.

6 Thomas then responded that he'll handle it and asked
7 Kevin Fordham what's the issue.

8 Kevin Fordham said that's not the way that violations
9 should be handled and that Thomas wasn't listening to him. He
10 tells Thomas that for the sisters he should read the charges,
11 which are the violations -- alleged violations against them,
12 and if they are not right, then he won't violate them, but if
13 the charges are right against these Vice Lord members,
14 Kevin Fordham tells Thomas to, quote, "do what you do."

15 Thomas then responds, "You act like you don't know what
16 I'm doing yet."

17 Fordham responds, "I didn't say you didn't. I know you
18 do. That's why you're in the position."

19 And Thomas responds, "Right. Ima take care of it, bro."

20 This shows that, again, Kevin Fordham is giving him the
21 direction. He's telling him to oversee this trial, oversee
22 whether these charges for these alleged violations of these
23 members are true, and then if they are he's responsible for
24 carrying out and making sure that violation happens.

25 Additionally, Your Honor, we intercepted a call with

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1 Mr. Thomas where he's talking about his recent involvement in a
2 shooting to protect another Vice Lord member from March 23rd,
3 2021. He's telling Kevin Fordham about how he received this
4 call from a Vice Lord member who said he was in the middle of a
5 shooting and needed assistance. Thomas said he was going to
6 ride for that Vice Lord member because he was a Vice Lord, and
7 he went out and he engaged in a shooting to protect that Vice
8 Lord member.

9 He has repeatedly shown a willingness to engage in
10 violence, whether it be murder, shootings to protect Vice Lords
11 or at the command of Vice Lord leaders.

12 Additionally, Your Honor, he does have some social media
13 posts as well involving firearms. In 2018, December 2018 he
14 posted a photo with an assault rifle with a high-capacity drum
15 magazine and a AR-style pistol, and the rifle had a magnified
16 optic laser combination -- combination effects for accuracy,
17 and the caption of this photo was "work work," and this was
18 posted about six months after his involvement in that
19 explosion.

20 He's also posted firearms to Facebook as recently as
21 February of 2021, and he also posted a photo on February 23rd,
22 2021, of himself holding a firearm with two other individuals,
23 and that photo is captioned, "We laying like that. Brothers,
24 you know, we missing a couple. You fuck with one, don't think
25 others ain't coming. Tell you that right now. You might as

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1 well just leave us the fuck alone."

2 Additionally, Your Honor, Mr. Thomas is an armed drug
3 dealer who travels out of state to obtain drugs. On
4 March 24th, 2021, he discussed selling heroin and arranged for
5 a sale the next day at that Brady location that I mentioned
6 previously.

7 **THE COURT:** Excuse me, Ms. Asher. I'm sorry to
8 interrupt you again.

9 Mr. Thomas, I can see you again, and I know that you are
10 disagreeing with what the government is saying, but I'm going
11 to ask you to please keep your emotions more in check --
12 okay -- and just listen; okay? Okay? I know you're on mute,
13 but I know you can hear me. All right? Your lawyer will have
14 an opportunity to talk on your behalf. Okay? Okay.

15 Go ahead, Ms. Asher.

16 **MS. ASHER:** Thank you, Your Honor. So as I was
17 saying, on March 24th, 2021, he arranged to sell heroin for the
18 next day at the Brady location that I mentioned, and on
19 March 25th he sold approximately 32 grams. It was supposed to
20 be heroin, but when it went to the lab, it actually tested
21 positive for fentanyl, which I'm sure, as Your Honor is aware,
22 is an incredibly dangerous substance connected at the center of
23 the opioid epidemic in this country. And, again, he was saying
24 he was selling heroin, but it tested positive for fentanyl.

25 Additionally, Your Honor, there are calls in March and

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1 April where Mr. Thomas continued to discuss selling heroin. He
2 mentioned that he only had fentanyl at the time, and he needed
3 to go out of state to obtain more heroin.

4 ATF executed both an arrest warrant and two federal search
5 warrants at the two locations associated with Mr. Thomas, the
6 Brady location and the Vaughan location that he wants to return
7 to.

8 At the Vaughan location they seized ammunition, a magazine
9 and a semi-automatic pistol. That's also the location where
10 Mr. Thomas was arrested.

11 At the Brady location, which was the same location where
12 that drug deal occurred, they seized a biker bus -- a gun box
13 with a firearm receipt and two magazines, paperwork titled
14 National Laws, a shotgun, a bag with drug-packaging material, a
15 9mm firearm, a digital scale, approximately 15.12 grams of
16 suspected drugs, approximately 700 grams of suspected heroin.
17 If that comes back as heroin and not fentanyl, just the heroin
18 alone, that would be enough weight to trigger a five-year
19 mandatory minimum. Additionally, 800 grams of suspected
20 marijuana and additional ammunition for the 12-gauge shotgun
21 and the 9mm firearm.

22 This was all found upstairs in the Brady location. Agents
23 have photos of him upstairs in that Brady location, and he also
24 admitted to ATF that he sleeps upstairs at the Brady location
25 and, based on his ping data, he had stayed there the night

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1 before the search warrant on June 2nd, 2021.

2 And so ATF found firearms at both homes. They found at
3 the Brady location drug-packaging materials, a significant
4 amount of suspected heroin, which again this may actually test
5 as fentanyl based on the prior sale where he was selling heroin
6 and it tested as fentanyl, as well as assorted heroin.

7 Turning now to our argument, Your Honor. As I mentioned
8 at the beginning, there is a statutory presumption for
9 detention, and the defendant must rebut this presumption, but
10 even if he does, it's still a factor for the Court to consider,
11 and the government believes that we have shown by the clear and
12 convincing evidence that there are no conditions or
13 combinations of conditions that will reasonably assure the
14 safety of any person in the community as well as a
15 preponderance of the evidence that there are no conditions or
16 combinations of conditions that will reasonably assure his
17 appearance as required.

18 When we look at the nature and circumstances of this
19 offense, as Your Honor has indicated in prior hearings, we have
20 drug dealing plus gang ties, which is incredibly serious. But
21 here we have Mr. Thomas, who is the Chief Enforcer for the IVL.
22 He is the right-hand man for Kevin Fordham, and when
23 Kevin Fordham needs muscle, he is the person that he's turning
24 to. Brandon Thomas is the person that Kevin Fordham is turning
25 to.

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1 We know based on Vice Lord literature that as a Chief
2 Enforcer he is expected to enforce discipline, enforce any
3 commands that are given to him by Vice Lord leaders, and that
4 includes assaults and murders. He cannot refuse these orders,
5 and based on these conversations that we have intercepted
6 between him and Mr. Fordham, it is clear that he is willing to
7 carry out these orders even when he has no interest, even when
8 he is not involved, even when it's a murder that he doesn't
9 think they have the full evidence. He is saying,
10 "Kevin Fordham, if you are telling me to do this, I'm going to
11 do it." He's showing a commitment to the Vice Lord literature
12 and a commitment to Vice Lord leaders to carry out murders on
13 behalf of the gang.

14 There are also significant concerns for witness safety and
15 security. As Your Honor is aware, Vice Lords kill or attempt
16 to kill members or people who they think might be cooperating
17 with law enforcement, and that was happening before this large
18 indictment. Brandon Thomas himself has shown a willingness to
19 engage in violence, including murder, at the direction of Vice
20 Lord leaders, and, again, that was when he had no interest in
21 the matter. So now he's in this huge RICO indictment and so he
22 poses a significant danger to people who are suspected of
23 cooperating with law enforcement.

24 He's also responsible for carrying out these physical
25 beatings, these violations for Vice Lord members, and

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1 Kevin Fordham told Brandon Thomas that there's a reason why he
2 is the Chief Enforcer. He has a history -- based on that
3 conversation, we can assume he has a history of carrying out
4 these orders, and, while they are talking about this violation,
5 Brandon Thomas is telling Kevin Fordham, "You act like you
6 don't know what I'm doing," again showing that he has a history
7 of carrying out these kinds of violations.

8 Again, he's the person that Kevin Fordham is turning to
9 when he needs muscle, whether that's to murder someone or
10 whether that's just a physical violation to get other Vice
11 Lords in line with Vice Lord law.

12 Your Honor also detained Kevin Fordham yesterday because
13 of his involvement in ordering these types of violent -- or
14 issuing these types of violent orders to gang members, and
15 Your Honor also detained Winisford Watkins, who is a Chief
16 Enforcer underneath Brandon Thomas. So he is someone who
17 Brandon Thomas could also issue orders to to engage in violence
18 and to carry out discipline, and, again, in both of those cases
19 Pretrial Services recommended detention based on dangerousness
20 for those individuals.

21 Your Honor, there is also the ongoing power struggles
22 where Mr. Thomas was one of the individuals specifically
23 discussed when they are talking about taking out Kevin Fordham
24 and taking out his leadership. Brandon Thomas is one of the
25 first people that they are saying they need to take care of.

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1 He's directly involved, and there are significant concerns for
2 his retaliation based on this plot to, not only kill someone
3 who is he very close to, Kevin Fordham, but he is also directly
4 named in that as well.

5 And then there is also evidence that he is an armed drug
6 dealer who is selling fentanyl, both knowingly fentanyl, as he
7 admitted, saying that he only had fentanyl and not heroin, but
8 he is also selling heroin and that's testing positive as
9 fentanyl as well, which is incredibly dangerous.

10 Your Honor, we believe that the weight of the evidence as
11 it relates to both dangerousness and risk of flight is very
12 strong for the reasons that I discussed above for the
13 dangerousness, as well as he's facing the ten-year mandatory
14 minimum as charged, and then, based on the additional drugs
15 that may come back, he may be facing additional mandatory
16 minimum charges as well.

17 Your Honor, when we look at his history and
18 characteristics, the best predictor of his future appearance is
19 his past conduct, and he has a decade of failing to appear for
20 court appearances. He has family ties out of state. He goes
21 out of the state to obtain drugs, and, based on his ping
22 warrant, we know he was recently out of state in May.

23 He also was untruthful to Pretrial Services about where he
24 was living, again, distancing himself from the 700 grams of
25 suspected heroin, the shotgun, the handgun, the drug-packaging

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1 materials, the ammunition, and the approximately 800 grams of
2 suspected marijuana. I mean he's engaging in all of this
3 behavior while he's saying he's living with his girl friend,
4 who has offered to be a third-party custodian, and, again, she
5 verified that Mr. Thomas was living with her for the past year.
6 So either she was also being untruthful to Pretrial Services or
7 she's unaware about where Mr. Thomas is and what he's doing.
8 She's either, again, untruthful about his drug dealing or she's
9 unaware of what he's doing, and she's also pregnant. So she's
10 not a suitable third-party custodian for Mr. Thomas.

11 Additionally, Your Honor, as we stated earlier, his
12 employment history as a security guard, that's consistent with
13 him being in the role of a Chief Enforcer. That's consistent
14 with the extortion that he was involved with in 2018 where a
15 Vice Lord and a Phantom Motorcycle Club member comes to him and
16 says I think this guy is having an affair with my wife, and
17 what does Mr. Thomas do? He tries to extort that person for
18 money, for his motorcycle, and he threatens that victim's
19 family.

20 Your Honor, the nature and seriousness of the danger posed
21 to any person in the community is incredibly high. We have
22 someone who is a Vice Lord member and a Phantom Motorcycle Club
23 member; he has this role as the chief enforcer; he is the
24 right-hand man, the muscle, to Kevin Fordham; and he is also an
25 armed drug supplier of fentanyl and heroin, which makes him

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1 incredibly dangerous, and for those reasons, Your Honor, we are
2 respectfully requesting that the Court detain Mr. Thomas
3 pending trial. Thank you.

4 **THE COURT:** Thank you, Ms. Asher.
5 Ms. Gracey.

6 **MS. GRACEY:** Yes. Thank you, Your Honor.
7 First and foremost, Judge, I would ask that the Court look
8 and lean heavily on the recommendation from Pretrial Services.
9 I think that, although the government argues that Pretrial did
10 not have complete information, I would restate knowing that the
11 Court knows that this is not a trial, this is just a hearing as
12 it relates to bond. So all of the information that the
13 government has provided to the Court, one, counsel has not had
14 an opportunity to view or review to rebut any of that
15 information; and, two, this is not a trial and so all of the
16 things that are stated by the government are just that, mere
17 allegations, which need to be proven in order to accept it as
18 being true.

19 With that being said, Judge, looking at the Pretrial
20 Services report, there are a number of things that I want to
21 bring to the Court's attention. First, Mr. Thomas is 34 years
22 of age. He's been a lifelong resident of the State of
23 Michigan. More importantly, the Detroit area. So I think
24 that, in terms of his ties to the community, is very
25 significant.

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1 In looking at Mr. Thomas' criminal history or I should say
2 the lack thereof, the government would speak to cases that,
3 quite frankly, even in the report by Pretrial Services
4 indicates that in fact those cases were dismissed.

5 More pointedly, when my client was 26 years of age,
6 according to the Pretrial Services report, the cases that the
7 government mentions I think really only to inflame the Court
8 about criminal sexual conduct, unlawful imprisonment, assault
9 with intent to do great bodily harm less than murder and
10 felonious assault, all of those cases were dismissed, Judge, so
11 holding that against him would be inappropriate.

12 And, looking at the rest of the information supplied by
13 Pretrial Services as it relates to any convictions, I would
14 state to the Court, according to the report, the only
15 conviction that I see on record here is a driving while license
16 suspended, a 93-day misdemeanor, back in 2009. The rest of the
17 information has no -- it's either been dismissed or there's no
18 record of any type of conviction.

19 If the Court were to agree with the government that
20 Mr. Thomas is this very, very dangerous person, Judge, the last
21 contact that was dismissed was in 2013.

22 I know the government stated, and it's in the report, for
23 some failures to appear. All misdemeanor cases, Judge. The
24 last thing that's recorded is November 17 of 2020 while we're
25 during the pandemic so I would ask that the Court take that --

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1 and that was for driving while license suspended in the 46th
2 District Court in Southfield, Michigan -- to look at that as it
3 is, Judge. Most cases -- a number of cases for a number of
4 defendants have either gone in bench warrant status, et cetera,
5 because even the courts were not equipped and prepared for Zoom
6 hearings. So that is the one -- in October 13th of 2017 is
7 another driving while license suspended, very insignificant.

8 But, more importantly, if the Court were to adopt the
9 argument of the government saying that Mr. Thomas is this, you
10 know, very, very dangerous person, I would submit to the Court
11 where are his convictions? Where are his convictions for
12 murder and drug dealing and assaultive crimes? There are none.

13 If he is that -- if the Court adopts or agrees with the
14 argument of the government, if he's that dangerous, if he's
15 done all of these illegal acts, then he should have some
16 convictions. Where does it state in the report that Mr. Thomas
17 has spent one day in prison? Zero, none.

18 So I don't know how, that if the Court were to agree with
19 that, how at 34 years of age he could have escaped all of
20 these, not only convictions, but not even crimes that he's been
21 charged with or arrested, drugs, murder, nothing that he has.
22 He has not spent a day in prison. As a matter of fact, it's
23 not even clear here that he's spent more than a day or so in a
24 county jail for these misdemeanor -- the driving while license
25 suspended.

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1 Judge, he's a family man. He has seven children.
2 Ms. Erica McElhaney, who is on the call, that I would submit to
3 the Court could be a proper third-party custodian, they have a
4 three-month-old child together. At the time that he was
5 arrested he was at the Vaughan address.

6 The government would argue, well, he wasn't being
7 truthful, neither was Ms. McElhaney. I would submit to the
8 Court he was being truthful. There is nothing illegal, there
9 is nothing wrong with living at one address and perhaps
10 spending the night at another address. It doesn't mean that
11 you claim that second address as being your residence. But
12 he's been in this relationship with Ms. McElhaney for over a
13 year, and that's where they are located.

14 In terms of the arrest itself, he was arrested at about
15 6:00 a.m. in bed at the Vaughan address with other --
16 Ms. McElhaney and other minor children that were there, part of
17 that household.

18 He has seven children, Judge. He does have his own, his
19 own business as well. Again, a big stretch from saying -- he
20 indicated that he was a security guard -- that all of a sudden
21 the Court is supposed to assume that that is a security guard
22 meaning for an enforcer. That's a little bit absurd, Judge,
23 and I would ask that the Court disregard that and agree that if
24 he has his own business it does not mean that he is -- that
25 that is an illegal business for the gang.

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1 Also, in looking at the government's argument that at the
2 time that he was arrested that firearms were found, she also
3 indicated that in fact there was a receipt for the firearm. I
4 would submit to the Court that one of the firearms -- both of
5 the firearms were properly registered, and one of them actually
6 was not only properly registered but belonged to Ms. McElhaney,
7 but it's my understanding that that was seized, and there were
8 no other firearms at the Vaughan address. Typically if you're
9 doing illegal activity, Judge, you don't have a firearm that
10 you purchase and you have a receipt for.

11 Judge, I know this Court has heard many of these cases,
12 probably is slated to hear, if not all of them, all 40 of them,
13 but a number of them as well. I would ask the Court not to
14 make this a one size fits all. It's not a one size fits all.
15 There are 40 defendants at this time in this case, all
16 differing degrees of perhaps culpability, no culpability
17 whatsoever, but trying to make everybody fit into the same is
18 wrong. I would ask that the Court only consider the
19 information that's contained -- and I'm sure the Court will --
20 as it relates to Mr. Thomas.

21 When looking at not only whether or not the government has
22 met its burden regarding the presumption in this matter, I
23 would state to the Court that it has not. All of the
24 allegations, again, that the Court has heard, I would ask that
25 the Court weigh that against his criminal history or the lack

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1 thereof that he doesn't have.

2 Comparing him, Mr. Thomas to Mr. Fordham or I believe the
3 government had said Mr. Walker, the Court even heard while we
4 were sitting waiting for this case to be called other
5 individuals who had murder convictions and significant
6 convictions and being on pretrial release, also being on
7 supervision. Mr. Thomas has none of those, absolutely none of
8 those.

9 Looking at all of the factors, Your Honor, I think that
10 the Court should agree with Pretrial Services that there are
11 conditions as it relates to the, the concern that my client
12 would not appear for any future appearances. I think that
13 conditions can be put in place as indicated by Pretrial
14 Services to assure that Mr. Thomas will appear at any future
15 court appearances.

16 Also, as it relates to the possible dangers to the
17 community, again, look at his history that is before this
18 Court. Not the allegations that have not been proven, but his
19 history, and I would state to the Court that there can be
20 conditions that could be put in place that will assure, not
21 only his appearance for future court case dates, but also
22 assuring his -- that he's not and will not pose a danger to the
23 community.

24 And also, Judge, as it relates to the third-party
25 custodian, if the Court had questions for Ms. McElhaney, who is

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1 on this call as well, she is 33 years of age. She is gainfully
2 employed as a dialysis technician. She works for Fresenius
3 Kidney Care. She has four children, including the one child, a
4 baby, infant, that she shares with Mr. Thomas. She's been at
5 that address. She's a responsible individual, and she -- I
6 have already spoken with her, and she would clearly agree to be
7 a third-party custodian in this matter to allow Mr. Thomas to
8 be released on an unsecured bond.

9 I would just respectfully ask -- Mr. Thomas has ties to
10 the community, not only at his church, Vincent Chapel, where
11 he's a drummer there, he also has significant health issues,
12 medical health issues, including asthma -- hold on one second,
13 Judge. Excuse me.

14 He has asthma. He has high blood pressure. Again, we're
15 still going through a pandemic in this regard, and I would
16 respectfully ask the Court to take that into consideration as
17 well.

18 And another significant point that was stated in the
19 Pretrial Services report, Mr. Thomas tested negative for any
20 drugs, any drugs whatsoever, and I think that speaks volumes as
21 well as far as him not doing drugs, not being -- testing
22 positive once he was taken into custody on this case.

23 I just think, Judge, that there are a number of conditions
24 that the Court can fashion to make sure that the Court is
25 satisfied that he does not pose a threat and that in fact he

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1 would appear at any future court appearance. The Court could
2 order either house arrest or some type of tether situation,
3 and, again, with a third-party custodian I think would be
4 sufficient as well.

5 Judge, I would respectfully ask the Court to follow the
6 recommendation of Pretrial Services, allow for a release of
7 Mr. Thomas so he can effectively fight and defend these charges
8 vigorously while out on bond. Thank you.

9 **THE COURT:** Thank you, Ms. Gracey.

10 Ms. Asher, briefly, please.

11 **MS. ASHER:** Nothing further, Your Honor. Thank you.

12 **THE COURT:** All right. The Court will take a brief
13 recess and come back with its decision. Thank you.

14 (Recess from 11:59 a.m. to 12:10 p.m.)

15 **THE CLERK:** We are back on the record for
16 Brandon Thomas.

17 **THE COURT:** Okay. Mr. Thomas, when I'm considering
18 the government's request to detain you pending resolution of
19 your case, I'm guided by some principles, and your attorney
20 touched on these, and the first and most important is that you
21 are entitled to the presumption of innocence. Nothing that
22 took place in this hearing today or that was in the
23 government's proffer or argument or anything that I might say
24 in my findings is intended or should be construed to affect
25 that presumption. The purpose of today's hearing is to

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1 determine whether or not, notwithstanding the presumption of
2 innocence, you should be detained pending trial in this matter.

3 And also, under the Bail Reform Act, detention is
4 considered an exceptional step. I'm required to release you
5 unless it is determined that there's no condition or
6 combination of conditions that will reasonably assure your
7 appearance in court or reasonably assure the safety of the
8 community, and the act requires I impose the least-restrictive
9 measures to provide those reasonable assurances.

10 And here the government is seeking to detain you on the
11 grounds that you are a risk of flight or nonappearance, and
12 they must show that by a preponderance of the evidence, and
13 that you're a danger to the community, which they must show by
14 clear and convincing evidence.

15 And, as the government noted, this is a presumption case,
16 which means it carries a presumption of detention because you
17 are charged with a drug-trafficking offense for which the
18 penalty is at least ten years. Now, that's a presumption, and
19 the presumption can be rebutted, and you just have to provide
20 some evidence to rebut that presumption, and I think the
21 presumption has been rebutted. I think it's in your lack of
22 significant criminal history, your family ties, your family
23 support, the things that your lawyer talked about today.

24 But I also have to consider some other things. The nature
25 and circumstances of the offense. No question these are

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1 serious charges, serious allegations of drug trafficking. As
2 the government put forth in its proffer, you are alleged to
3 have been engaged in some drug trafficking and some very
4 serious controlled substances. Your gang activity, your
5 leadership role in the gang, your role as an enforcer is very
6 concerning to the Court. It shows a level of dangerousness in
7 the government's proffer.

8 But I also consider, you know, your history and
9 characteristics. I do note that you do not have a significant
10 criminal history. I do note that you have family support. You
11 have, you know, you have indicated some employment, but I'm
12 not -- that's a little bit questionable.

13 But, overall, I'm looking at everything. I'm considering
14 the report of Pretrial Services, and, notwithstanding these
15 very serious charges against you and the very serious
16 allegations that were put forth in the government's proffer,
17 which do give the Court concern, I believe I can find
18 conditions and a combination of conditions that will reasonably
19 assure your appearance and reasonably assure the safety of
20 others in the community. And I'm going to release you on bond,
21 but I'm going to do it with a number of conditions in addition
22 to what's in the Pretrial Services report.

23 So I want you to listen very carefully. And I see that
24 your girl friend, Ms. McElhaney, is on the call?

25 **MS. GRACEY:** Yes, Judge, she is.

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1 **THE COURT:** Okay. Ms. McElhaney, if you want to put
2 your camera on, I want you to hear these conditions, too. Good
3 afternoon.

4 **MS. MCELHANEY:** Good afternoon, Your Honor.

5 **THE COURT:** Okay. So, Mr. Thomas, I'm going to
6 release you on a \$10,000 unsecured bond, which means you don't
7 have to put any money up front, with these conditions:

8 You are going to report to Pretrial Services as directed.

9 You are going to reside at the Vaughan address with
10 Ms. McElhaney. Okay?

11 And I'm actually going to put you under what's called home
12 incarceration, which means you need to stay home; okay? You
13 can only leave -- you have got to get preapproval from Pretrial
14 Services, and that would be for things like court appearances
15 or if you need to meet with your attorney or if there's a
16 medical issue that you have to. Okay? So that's going to be
17 home incarceration with the monitoring.

18 So your travel would be restricted to the Eastern District
19 of Michigan, but you're going to be on home incarceration so
20 you're not going to be able to go anywhere.

21 You going to avoid all contact with victims, witnesses,
22 codefendants, anybody that's named in the indictment or
23 identified by name, initial, anything. No contact. I know you
24 hear me; okay?

25 You are to participate in a mental health evaluation or

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1 any kind of treatment that Pretrial Services may direct.

2 You are not to have any firearms in the home or other
3 destructive devices, and all of those need to be removed. I
4 think they were removed even though they were registered
5 apparently to you, Ms. McElhaney. No guns in the house. No
6 guns, no guns.

7 You are not to use any controlled substances. I know you
8 haven't tested for those.

9 And you will have to work with Pretrial Services to
10 resolve all of these outstanding warrants to the extent you'll
11 be able to being under home incarceration.

12 And I'm also going to make Ms. McElhaney your third-party
13 custodian, and what that means, Ms. McElhaney, is you are going
14 to also be responsible to make sure that he complies with all
15 of these conditions, and you are kind of the eyes and ears of
16 the Court; okay? So you will have to be in contact with
17 Pretrial Services, you know, should he not comply with these
18 conditions.

19 But I think, you know, Mr. Thomas, you know you have every
20 reason in the world to comply with these conditions, don't you?
21 You know what could happen if you don't. You could face
22 additional charges. You could have your bond revoked, and you
23 could be detained pending resolution of this case. So those
24 are all very serious consequences should you not comply with
25 these conditions.

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1 Do you understand all of those conditions? Okay. You can
2 unmute so I can hear you. Can you unmute? I want to hear you.

3 **THE DEFENDANT:** Yes, Your Honor.

4 **THE COURT:** Okay. And you agree to abide by those
5 conditions?

6 **THE DEFENDANT:** Yes, Your Honor.

7 **THE COURT:** Okay. I know these are pretty serious
8 conditions that I'm putting on, but I think that that will
9 assure your appearance, and it will assure the safety of the
10 community.

11 Do we have -- is Ms. Dely here from Pretrial? I think
12 she's signing on. Oh, you're muted. We can't hear you.

13 **PRETRIAL SERVICES OFFICER:** I'm sorry, can you hear
14 me now?

15 **THE COURT:** We can hear you now.

16 **PRETRIAL SERVICES OFFICER:** Okay. Your Honor,
17 Susan Dely from Pretrial Services. I just wanted to add that
18 the location monitoring installation will occur at the
19 United States Marshals in Detroit, and that should occur within
20 48 hours.

21 **THE COURT:** Yes, that is correct. It will occur in
22 Detroit at the courthouse, and you are not to be released from
23 custody in any location prior to being placed on location
24 monitoring. So that means they are going to take you from
25 Livingston County, and the Marshals are going to take you back

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1 to the Detroit courthouse within 48 hours, and you will have
2 that location monitoring equipment installed at the Detroit
3 courthouse. Okay? Okay?

4 And did I cover everything else, Ms. Deli?

5 **PRETRIAL SERVICES OFFICER:** Just one more,
6 Your Honor, and it's in regards to location monitoring. If he
7 does gain employment later down the line, that the cost of the
8 location monitoring, he may absorb some of that cost if deemed
9 appropriate.

10 **THE COURT:** Okay. We'll add that condition as well.

11 Okay. With that, I don't have anything further on this
12 matter.

13 I wish you well, Mr. Thomas.

14 **MS. ASHER:** Your Honor, there would be one additional
15 condition we would request. Your Honor already said no contact
16 with codefendants, but we would also request no contact with
17 any gang members, including Vice Lord members or Phantom's
18 Motorcycle Club, and we would also request a 24-hour stay of
19 this order to evaluate an appeal to Judge Borman.

20 **THE COURT:** Okay. I can add the condition -- or no
21 contact with any gang members, I thought that sort of covered
22 the indictment, but gang members or motorcycle club members.
23 And, as far as a 24-hour stay, I'll give you the 24-hour stay,
24 and they may not even be able to get him to the courthouse.
25 They have 48 hours anyway. Okay?

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1 **MS. ASHER:** Thank you, Your Honor. That's all we
2 have.

3 **THE COURT:** Okay. Is there anything further from the
4 government?

5 MS. ASHER: No, Your Honor. Thank you.

6 THE COURT: Okay. Anything further, Ms. Gracey?

7 **MS. GRACEY:** No. Thank you, Your Honor.

8 **THE CLERK:** Ms. Gracey, I'm going to send you the
9 third-party custodial paper. If you could have that signed and
10 returned to me along with the signed acknowledgment.

11 MS. GRACEY: The signed acknowledgment of the third
12 party you're talk about?

13 **THE CLERK:** No, I mean the acknowledgment of
14 Mr. Thomas as well. We never got a signed acknowledgement.

15 **THE COURT:** Oh, I have one. We do have one, Marie.

16 **THE CLERK:** Oh, did you? Oh, okay.

17 **THE COURT:** We do. I know it gets a little
18 confusing, but we do have one for Mr. Thomas.

19 **THE CLERK:** Okay. So just the third party. I'll
20 email that to you.

21 MS. GRACEY: Okay. Thank you.

22 THE COURT: All right.

23 **THE CLERK:** We are off the record for Brandon Thomas.

24 (Proceedings concluded at 12:20 p.m.)

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C E R T I F I C A T I O N

I certify that the foregoing is a correct transcription of
the record of proceedings in the above-entitled matter.

s/ Sheri K. Ward
Sheri K. Ward
Official Court Reporter

6/10/2021
Date

- - -